

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MICHAEL MAROM,	:
Plaintiff,	:
v.	:
AUDREY PIEROT and MARK GORDON,	:
Defendants.	:

USDC SDNY
DOCUMENT
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DATE FILED: 11/09/2020

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

18 CV 12094 (VB)

Briccetti, J.:

Before the Court is Magistrate Judge Judith C. McCarthy's Amended Report and Recommendation ("R&R"), dated August 30, 2020 (Doc. #98), on defendants' motions to dismiss the amended complaint pursuant to Rule 12(b)(6). (Docs. ##85, 90).

The magistrate judge recommended that the motions be granted and that the amended complaint be dismissed with prejudice. Specifically, Judge McCarthy found that (i) plaintiff failed plausibly to allege claims for defamation or slander per se, or defamation by implication against defendant Gordon; (ii) plaintiff failed plausibly to allege claims for defamation or slander per se, or defamation by implication against defendant Pierot; (iii) plaintiff's new allegations of defamation against defendant Pierot, raised for the first time in plaintiff's amended complaint, were untimely; and (iv) plaintiff's claim for actual malice was not an independent cause of action. Accordingly, Judge McCarthy recommended the Court dismiss the amended complaint in its entirety.

The R&R is adopted as the opinion of the Court, and defendants' motions to dismiss the amended complaint are GRANTED.

Familiarity with the factual and procedural background of this case is presumed.

A district court reviewing a magistrate judge's report and recommendation "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate

judge.” 28 U.S.C. § 636(b)(1). Parties may raise objections to the magistrate judge’s report and recommendation, but they must be “specific[,] written,” and submitted within fourteen days after being served with a copy of the recommended disposition, Fed. R. Civ. P. 72(b)(2); 28 U.S.C. § 636(b)(1), or within seventeen days if the parties are served by mail. See Fed. R. Civ. P. 6(d).

When a party submits a timely objection to a report and recommendation, the district court reviews de novo those portions of the report and recommendation to which the party objected. 28 U.S.C. § 636(b)(1)(C); see also Fed. R. Civ. P. 72(b)(3). The district court may adopt those portions of the recommended ruling to which no timely objections have been made, provided no clear error is apparent from the face of the record. See Wilds v. United Parcel Serv., Inc., 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003). The clearly erroneous standard also applies when a party makes only conclusory or general objections, or simply reiterates his original arguments. See Ortiz v. Barkley, 558 F. Supp. 2d 444, 451 (S.D.N.Y. 2008). As plaintiff is proceeding pro se, this Court “will ‘read [his] supporting papers liberally, and . . . interpret them to raise the strongest arguments that they suggest.’” Id. (quoting Burgos v. Hopkins, 14 F.3d 787, 790 (2d Cir. 1994)).¹

No party objected to Judge McCarthy’s thorough and well-reasoned R&R.

The Court has carefully reviewed the R&R and the underlying record. Having done so, the Court finds no error, clear or otherwise.

¹ Unless otherwise indicated, case quotations omit all internal citations, quotation marks, footnotes, and alterations.

CONCLUSION

Accordingly, the Court adopts the R&R as the opinion of the Court, and defendants' motions to dismiss are GRANTED.

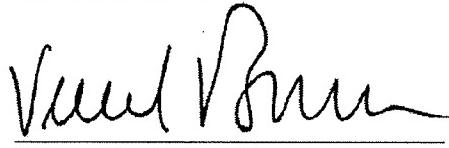
The Clerk is instructed to enter judgment accordingly and close this case.

The Clerk is further instructed to terminate the motions. (Docs. ##85, 90).

The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from this order would not be taken in good faith, and therefore in forma pauperis status is denied for the purpose of an appeal. See Coppededge v. United States, 369 U.S. 438, 444–45 (1962).

Dated: November 9, 2020
White Plains, NY

SO ORDERED:



Vincent L. Briccetti
United States District Judge